

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-03 H-01 INR-07 L-02

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SUBJECT: FOREIGN INVESTMENT: LAW 2687

REF: (A) ATHENS 387; (B) ATHENS 662

1. SUMMARY: GOG RECENTLY CONFIRMED ITS INTENTION TO INCLUDE FOREIGN INVESTMENT INCENTIVE LAW 2687 IN NEW DRAFT CONSTITUTION, BUT ASSERTED AT SAME TIME THAT LEGAL PROVISION WOULD BE MADE TO ALLOW FOR REVIEW AND REVISION OF LAW 2687 CONTRACTS SIGNED DURING JUNTA PERIOD FOR IRREGULARITIES. AS DETAILS OF NEW PROVISION ARE NOT YET SPELLED OUT, IT IS TOO EARLY TO JUDGE ITS IMPACT ON INVESTMENT CLIMATE OR LOCAL U.S. INVESTMENTS.

2. COORDINATION AND PLANNING MINISTER PAPALIGOURAS AND FINANCE MINISTER DEVLETGLOU HAVE FILED AN AMENDMENT TO ARTICLE 108 OF THE DRAFT CONSTITUTION NOW BEING DEBATED IN PARLIAMENT. WITH THIS AMENDMENT ARTICLE 108 WOULD READ AS FOLLOWS:

QUOTE (1) LEGISLATIVE DECREE 2687/53 "RE: INVESTMENT AND LIMITED OFFICIAL USE

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PROTECTION OF FOREIGN CAPITAL," AS AUTHENTICALLY INTERPRETED

BY LEGISLATIVE DECREE 2928/54 AND PARA. 3, ARTICLE 5, OF
LEGISLATIVE DECREE 4256/62, RETAINS ITS PREVIOUS FORMAL
VALIDITY.

(2) A LAW TO BE ISSUED WITHIN A THREE-MONTH PERIOD
FROM THE DATE OF PUBLICATION OF ...(THE NEW CONSTITUTION)
...MAY PROVIDE FOR THE REVISION OF ANY ADMINISTRATIVE
ACT OF APPROVAL OR CONTRACT INVOLVING FOREIGN CAPITAL
INVESTMENT ISSUED DURING THE PERIOD FROM APRIL 21, 1967,
THROUGH JULY 23, 1974, UNDER LEGISLATIVE DECREE 2687/53.
END QUOTE

3. COMMENTING ON THE PROPOSED AMENDMENT, COORDINATION AND
PLANNING MINISTER PAPALIGOURAS MADE THE FOLLOWING STATEMENT;
QUOTE THE GOVERNMENT WILL RESPECT THE CONSTITUTIONAL
VALIDITY OF L.D. 2687/53. THE GOVERNMENT WILL, OF COURSE,
SEEK REVISION OF THOSE CONTRACTS CONCLUDED DURING THE
7-YEAR PERIOD WHICH PRESENT EVIDENT IRREGULARITIES AS A
RESULT OF WHICH THE STATE AND SOCIETY AS A WHOLE HAVE SUFFERED
DAMAGE. THE CRITERIA TO BE USED IN SUCH REVISION WILL NOT BE
ARBITRARY BUT WILL BE STIPULATED BY SPECIAL LAW. I DO HOPE
THAT FOLLOWING NEGOTIATIONS ON THESE REVISIONS THERE WILL NOT
BE A SINGLE CASE OF DISAGREEMENT BETWEEN THE PARTIES INVOLVED.
GOVERNMENT POLICY EMPHASIZES THE IMPORTANCE OF FOREIGN CAPITAL,
AND THE UNOBSTRUCTED REPATRIATION OF ACTUALLY IMPORTED
CAPITAL (PROFITS, INTEREST ON LOANS, ETC.) WILL BE SAFEGUARDED
IN ACCORDANCE WITH THE PROVISIONS OF THE LAW. END QUOTE

4. COMMENT; ARTICLE 3 OF FOREIGN INVESTMENT LAW 2687 PROHIBITS
AMENDMENT BY THE GOVERNMENT OF 2687 CONTRACTS WITHOUT THE
APPROVAL OF THE INVESTOR. ACTION OUTLINED BY PAPALIGOURAS
AND DEVLETOGLOU APPARENTLY AIMS AT PROVIDING LEGAL BASIS FOR
REVIEWING AND REVISING 2687 CONTRACTS SIGNED DURING JUNTA
PERIOD. GOG HAD PREVIOUSLY ANNOUNCED ITS INTENTION OF
REVIEWING WIDE RANGE OF ECON TRANSACTIONS BY JUNTA GOVERN-
MENTS (SEE REFTEL A). MOREOVER, GOG IS KNOWN TO BE DISSATISFIED
WITH CERTAIN FOREIGN INVESTMENT CONTRACTS SIGNED DURING
1967-1974, INCLUDING REFINERY EXPANSIONS, NESTLE DAIRY PLANT,
DRAMA PAPER MILL, RENAULT-PEUGEOT PLANT, AND OCEANIC'S OIL
EXPLORATION AND DEVELOPMENT CONTRACT, AS WELL AS OTHER OIL
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EXPLORATION CONTRACTS. DISSATISFACTION UNDOUBTEDLY STEMS IN
SOME CASES FROM SUSPICION OF IRREGULARITIES IN THE CONTRACT
AND REFLECTS THE "DEJUNTAIFICATION" SPIRIT CURRENTLY PREVALENT
IN GREEK POLITICS. IN OCEANIC'S CASE, HOWEVER, AND THAT OF
OTHER OIL PROSPECTORS, WE BELIEVE GOG'S PRINCIPAL MOTIVE IS
TO INCREASE ITS ROYALTIES FROM PROSPECTIVE DOMESTIC PRODUCTION.

5. PAPALIGOURAS' EMPHATIC REITERATION OF LAW 2687'S

CONSTITUTIONAL VALIDITY REFLECTS HIS OBVIOUS AWARENESS OF
POISONING EFFECT ANY UNDERMINING OF INVESTMENT INCENTIVE
LAW WOULD HAVE ON FOREIGN INVESTMENT CLIMATE AND INVESTMENT
INFLOWS. UNTIL GOG DEFINES ESSENTIAL DETAILS OF ITS PLAN,
HOWEVER, IT WILL BE IMPOSSIBLE TO SAY WITH ANY PRECISION
WHAT IMPACT WILL BE ON U.S. INVESTMENTS OR ON INVESTMENT
CLIMATE IN GENERAL.
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